ADOPTED REGULATION OF THE

COMMISSIONER OF INSURANCE

LCB File No. R248-03

Effective November 12, 2004

EXPLANATION – Matter in ***italics*** is new; matter in brackets **[**~~omitted material~~**]** is material to be omitted.

AUTHORITY: §1, NRS 679B.130, 695C.070, 695C.270 and 695C.275; §§2-5, NRS 679B.130 and 695C.275; §6, NRS 439.200, 679B.130, 695C.080, 695C.210 and 695C.275.

A REGULATION relating to insurance; requiring health maintenance organizations and provider-sponsored organizations to maintain blanket fidelity coverage issued by an authorized issuer for certain coverage; revising the address of the Division of Insurance of the Department of Business and Industry; requiring each organization to file an annual report with the Commissioner of Insurance, and requiring, under certain circumstances, a foreign or alien organization to submit an affidavit, a jurat page or a copy of the jurat page to the Commissioner of Insurance to indicate that the annual report of the organization has been filed; authorizing the Commissioner to require a foreign or alien organization to file a financial report more frequently than annually under certain circumstances; requiring each domestic organization to file a quarterly report with the Commissioner; requiring an organization to file an audited financial statement with the Commissioner in accordance with certain forms and instructions provided by the National Association of Insurance Commissioners; and providing other matters properly relating thereto.

Section 1. NAC 695C.120 is hereby amended to read as follows:

695C.120 An application for a certificate of authority must be accompanied by all forms specifically required by chapter 695C of NRS and provided by the Division and by:

1. All documents describing the financing and ownership of the organization, including financial statements and copies of any contracts made or to be made between any member of the governing board or committee, the officers of the corporation or partners of a partnership or association, or providers, and the proposed organization. The financial statements must depict a

net worth of not less than $1,500,000 for a health maintenance organization. All financial statements must be certified by an independent certified public accountant.

2. For a health maintenance organization, a surety bond or deposit of cash or securities to secure the debts of the health maintenance organization and for the protection of the enrollees in the amount of $250,000 or more which is deposited with the Commissioner. The bond must include a provision preventing cancellation except after written notice to the Commissioner of not less than 90 days. A health maintenance organization which has made a deposit of securities pursuant to this subsection may withdraw them if it makes an equivalent deposit of cash, securities or a combination of cash and securities acceptable to the Commissioner.

3. For a health maintenance organization, ~~[a]~~ blanket fidelity ~~[bond]~~ ***coverage issued by an authorized insurer*** in an amount of not less than $1,000,000 in the aggregate to cover every director, officer, partner and employee of the health maintenance organization who may receive, collect, disburse or invest funds in connection with the activities of the health maintenance organization.

4. A proposed plan of operation for the first 3 years of operation based on projected total income and projected total expenses. The amounts stated for the cost of medical services and the use of them in the proposed plan must be certified by a qualified actuary. The plan must project income and expected costs allocated to:

(a) Coverage for emergencies or medically necessary services rendered outside of the specified geographic area of service of the organization;

(b) Per capita payments to primary physicians;

(c) Fees to other providers of health care;

(d) Supplemental benefits;

(e) A contract of stop-loss insurance;

(f) Expenses of administration; and

(g) Amortization of necessary costs for the establishment of the organization.

Sec. 2. NAC 695C.124 is hereby amended to read as follows:

695C.124 1. Any person wishing to review an application for issuance of a certificate of authority for an organization shall submit a request to the Division in writing. The application may be reviewed at the offices of the Division at ~~[~~1665 Hot Springs Road,~~]~~ ***788 Fairview Drive, Suite 300,*** Carson City, Nevada ~~[,]~~ ***89701-5491,*** or a copy of the application may be requested. If a copy of the application is requested, money to reimburse the Division for the cost of postage and of preparing the copy must be submitted with the request.

2. If any person wishes to be notified of a pending application or hearing concerning the denial of a certificate of authority, he must request in writing that he be placed on a list maintained by the Division for this purpose.

Sec. 3. NAC 695C.130 is hereby amended to read as follows:

695C.130 1. Except as otherwise provided in this section, a health maintenance organization which receives a certificate of authority shall maintain and report on its financial report filed with the Commissioner pursuant to NRS 695C.210 a minimum net worth in an amount:

(a) Equal to $1,500,000; or

(b) Equal to 2 percent of the first $150,000,000 earned as revenue from premiums collected in the preceding 12-month period, plus 1 percent of the amount in excess of $150,000,000 earned as revenue from premiums collected in the preceding 12-month period,

➥ whichever is greater.

2. In addition to the requirements set forth in subsection 1, a health maintenance organization which receives a certificate of authority shall maintain:

(a) A surety bond or deposit of cash or securities for the protection of enrollees of not less than $250,000.

(b) A contract of stop-loss insurance as required by NAC 695C.135 for new health maintenance organizations.

(c) ~~[A blanket fidelity bond]~~ ***Blanket fidelity coverage issued by an authorized insurer*** as required by NAC 695C.120 for new health maintenance organizations.

(d) The operating ~~[, premium tax]~~ and insolvency reserves required for new health maintenance organizations.

3. If the Commissioner determines that the financial condition of a health maintenance organization fails to comply with the conditions set forth in NRS 695C.090, he may require the organization to:

(a) Maintain a net worth that is greater than the amount required by subsection 1;

(b) Obtain a written guarantee from a business which has sufficient surplus and an adequate history of generating net income to guarantee the maintenance of the minimum net worth of the health maintenance organization required by subsection 1 and obtain approval of the written guarantee and guarantor from the Commissioner; or

(c) Comply with paragraphs (a) and (b).

4. If a health maintenance organization proposes to make a material modification to its approved plan of operations, it shall submit a copy of its proposed modification to the Commissioner. The Commissioner may, as a condition of approval for the proposed modification by the health maintenance organization, require the health maintenance organization to increase

the amount of reserves, deposits, bonds or minimum net worth it is required to maintain. The Commissioner may, in making such a determination, consider the conditions set forth in NRS 695C.090.

Sec. 4. NAC 695C.135 is hereby amended to read as follows:

695C.135 1. Each health maintenance organization shall obtain a contract of insurance for the cost of providing basic health care services which exceed in the aggregate:

(a) For a health maintenance organization in operation for 2 years or less, $30,000 per enrollee per year;

(b) For a health maintenance organization in operation for more than 2 years which has a free surplus of $2,000,000 or less, $50,000 per enrollee per year;

(c) For a health maintenance organization in operation for more than 2 years which has a free surplus of more than $2,000,000, $100,000 per enrollee per year;

(d) For a health maintenance organization in operation for more than 3 years which has a free surplus of more than $4,000,000, $150,000 per enrollee per year; and

(e) For a health maintenance organization in operation for more than 5 years which has a free surplus of more than $8,000,000, $200,000 per enrollee per year.

2. The contract of insurance must include a provision that, in the case of the insolvency of the health maintenance organization, the insurer will pay all claims made by an enrollee for the period for which a premium has been paid to the health maintenance organization. The contract may have an aggregate limit of $5,000,000 but must specifically provide for the:

(a) Continuation of benefits to enrollees for the period for which the subscribers have made prepayments to the health maintenance organization;

(b) Continuation of benefits for those enrollees confined in a medical facility or facility for the dependent at the time of the insolvency of the health maintenance organization until the enrollee is discharged from the facility; and

(c) Payment of a provider not affiliated with the health maintenance organization who provided medically necessary services, as described in the evidence of coverage, to an enrollee.

3. Any contract of insurance obtained by a health maintenance organization under this section may be cancelled only after 90 days' written notice of the cancellation is given to the Division by the health maintenance organization and its insurer.

4. As used in this section:

(a) "Basic health care services" includes hospitalization but excludes any benefits under an optional plan for dental, vision or pharmaceutical benefits.

(b) "Free surplus" means the ~~[sum held by the health maintenance organization in assets and investments authorized by chapter 695C of NRS as its surplus and for its uncovered expenditures.]~~ ***total capital and surplus, as reported on the National Association of Insurance Commissioners' form of annual statement.***

Sec. 5. NAC 695C.270 is hereby amended to read as follows:

695C.270 1. ~~[Each organization shall file its]~~ ***As a condition of doing business in this State, each health maintenance organization must file with the Commissioner an annual report required by NRS 695C.210 that:***

(a) Conforms to the format prescribed by the National Association of Insurance Commissioners in the Annual Statement Instructions for Health and the Accounting Practices and Procedures Manual, which have been adopted by reference in NAC 679B.033;

(b) Contains exhibits and schedules that follow the specifications developed by the National Association of Insurance Commissioners; and

(c) Contains any other information relating to the organization required by the Commissioner.

2. Information from the annual report of the organization must be filed:

(a) Pursuant to the specifications adopted by the National Association of Insurance Commissioners for filing information in an electronic format;

(b) At the central office of the National Association of Insurance Commissioners, 2301 McGee Street, Suite 800, Kansas City, Missouri 64108-2662; and

(c) On or before March 1 of each year.

3. If a foreign or alien health maintenance organization files a report in an electronic format with the National Association of Insurance Commissioners, that report will be deemed to have been filed with the Commissioner if:

(a) The foreign or alien health maintenance organization submits an affidavit, a jurat page or a copy of the jurat page to the Commissioner indicating that the report has been so filed. If the organization submits a jurat page, the jurat page must:

(1) Conform to the format prescribed by the National Association of Insurance Commissioners in the Annual Statement Instructions for Health, which has been adopted by reference in NAC 679B.033; and

(2) Be executed by a notarial officer pursuant to NRS 240.1655 and 240.167.

(b) The affidavit, jurat page or copy of the jurat page is accompanied by the applicable fees set forth in NRS 680B.010.

4. ***An*** annual report ~~[on the form designated "Health Maintenance Organizations, Association Edition," by the National Association of Insurance Commissioners, as it existed on August 1, 1990. That form, which is hereby adopted by reference, may be obtained at a cost of $18 from Global Financial Press, 1845 Walnut Street, Philadelphia, Pennsylvania 19103, telephone: 215.977.7458. The organization shall follow the instructions accompanying that form. 2.]~~ ***required by NRS 695C.210 to be filed with the Commissioner by an organization must be on the current version of the Annual Statement Blanks for Health adopted by the National Association of Insurance Commissioners, which has been adopted by reference in NAC 679B.033. Each organization shall, in preparing the report, follow the Annual Statement Instructions for Health adopted by the National Association of Insurance Commissioners, which accompanies the Annual Statement Blanks for Health.***

5. Each organization shall include in its annual report the number and amount of claims of malpractice initiated against it during that year. The report must include claims made with or without legal process and the disposition, if any, of each claim.

~~[3.]~~ ***6.*** Each organization shall furnish a copy of any annual report it distributes to its enrollees to the Division 30 days before that distribution with a notice of its intent to distribute it.

~~[4.]~~ ***7.*** If an organization is required by federal law to submit quarterly reports to the ~~[Office of Health Maintenance Organizations,]~~ ***Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services,*** it shall submit copies of those reports to the Division.

~~[5. If deemed appropriate, the Commissioner will require that a financial statement be submitted to him more frequently than annually. If a quarterly statement is required, it]~~

8. If necessary to determine the financial condition of a foreign or alien health maintenance organization or the fulfillment of contractual obligations or compliance with law by a foreign or alien health maintenance organization, the Commissioner may require the foreign or alien health maintenance organization to file a financial report more frequently than annually. Such a report must be:

(a) Filed on the current form adopted by the National Association of Insurance Commissioners for the type of organization filing;

(b) Completed in accordance with the current instruction manual for the type of organization filing; and

(c) Filed with the National Association of Insurance Commissioners in an electronic format.

9. Each domestic health maintenance organization shall file a quarterly report with the Commissioner. A quarterly report must be:

(a) Filed on the ~~[most]~~ current form ~~[for quarterly statements for an organization]~~ adopted by the National Association of Insurance Commissioners ~~[; and]~~ ***for the type of organization filing;***

(b) Completed in accordance with the ~~[instructions accompanying that form.~~

~~6.]~~ ***current instruction manual for the type of organization filing; and***

(c) Filed with the National Association of Insurance Commissioners in an electronic format.

10. For a health maintenance organization, the ***audited*** financial statement of the organization filed pursuant to subsection 3 of NRS 695C.210 is a separate document from the annual statement required to be filed pursuant to paragraph (a) of subsection 2 of NRS 695C.210. For a provider-sponsored organization, the ***audited*** financial statement of the organization filed

pursuant to subsection 3 of NAC 695C.360 is a separate document from the annual statement required to be filed pursuant to paragraph (a) of subsection 2 of NAC 695C.360. The ***audited*** financial statement filed pursuant to subsection 3 of NRS 695C.210 or subsection 3 of NAC 695C.360 must be ~~[filed]~~ ***:***

(a) Filed for each individual organization ~~[not later than 90]~~ ***within 120*** days after the end of its fiscal year ~~[.]~~ ***; and***

(b) Filed pursuant to the specifications and instructions adopted by the National Association of Insurance Commissioners which are included in the Annual Statement Instructions for Health, which have been adopted by reference in NAC 679B.033.

➥ Consolidated statements for organizations that are members of an insurance holding company ***system*** are not acceptable.

~~[7.]~~ ***11.*** The Commissioner will, if appropriate, take disciplinary action pursuant to NRS 695C.340 or 695C.350 or NAC 695C.1286 or 695C.1288 against an organization which fails to file its ***annual*** financial ***reports or*** statements on the prescribed forms, ***in the prescribed format*** or by the prescribed date.

12. The Commissioner will grant, for good cause and upon advance written request, an extension for filing ~~[a]~~ ***an annual report or*** statement.

13. As used in this section, "jurat page" means a written declaration by a notarial officer that the signer of a document signed the document in the presence of the notarial officer and swore to or affirmed that the statements in the document are true.

Sec. 6. NAC 695C.275 is hereby amended to read as follows:

695C.275 1. Each health maintenance organization which receives a certificate of authority shall include in its annual report submitted to the Commissioner pursuant to NRS

695C.210 the quality and performance indicators selected for each calendar year by the State Board of Health. The Board will select the indicators from the reporting set data domains set forth in *Technical Specifications, Health Plan Employer Data and Information Set* (HEDIS), volume 2, in the form most recently published by the National Committee for Quality Assurance ~~[,]~~ ***(NCQA),*** unless the Board gives notice that the most recent revision is not suitable for this State pursuant to subsection 2. Volume 2 of HEDIS may be obtained from the National Committee for Quality Assurance ~~[, Publications Center, P.O. Box 533, Annapolis Junction, Maryland 20701-0533,]~~ ***, NCQA, Attention: EPJ, 2000 L Street, N.W., Suite 500, Washington, DC 20036,*** for the price of ~~[$245,]~~ ***$260*** plus $14 for shipping and handling ~~[.]~~ ***or by ordering via telephone at (888) 275-7585 or on the Internet at <http://www.ncqa.org/publications>.***

2. The State Board of Health shall review each revision of the reporting set data domains ~~[adopted by reference pursuant to subsection 1]~~ ***set forth in Technical Specifications, Health Plan Employer Data and Information Set (HEDIS), volume 2,*** to ensure their suitability for this State. If the Board determines that a revision is not suitable for this State, it will hold a public hearing to review its determination and give notice of that hearing within 6 months after the date of the publication of the revision. If, after the hearing, the Board does not revise its determination, the Board will, within 30 days after the hearing, give notice that the revision is not suitable for this State. If the Board does not give such notice, the revision becomes part of the reporting set data domains adopted by reference pursuant to subsection 1.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R248-03

The Commissioner of Insurance adopted regulations assigned LCB File No. R248-03 which pertain to chapter 695C of the Nevada Administrative Code on May 31, 2004.

Notice date: 12/30/2003 **Date of adoption by agency:** 5/31/2004
Hearing date: 1/30/2004 **Filing date:** 11/12/2004

INFORMATIONAL STATEMENT

A hearing was held on January 30, 2004, at the offices of the Department of Business and Industry, Division of Insurance (Division), 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, with a simultaneous video-conference conducted at the Bradley Building, 2501 E. Sahara Avenue, Manufactured Housing Division Conference Room, 2nd Floor, Las Vegas, Nevada 89104, regarding the adoption of the regulation concerning financial reporting and health maintenance organizations.

Public comment was solicited by posting notice of the hearing in the following public locations: 788 Fairview Drive, Legislative Counsel Bureau, Capitol Building Lobby, Blasdel Building, Carson City Courthouse, State Library, Clark County Library, Capitol Press Room and the Division's Las Vegas office.

In addition, the Division maintains a list of interested parties, comprised mainly of insurance companies, agencies, and other persons regulated by the Division. These persons were notified of the hearing and that copies of the regulation could be obtained from or examined at the offices of the Division in Carson City.

The hearing was attended by 13 individuals. Mr. Bob Burch, Ms. Connie Ward, and Ms. Peggy Willard-Ross, representing the Division, provided oral testimony. Mr. Jack Kim, representing the Sierra Insurance Group, Mr. James Wadhams, Esq., and Mr. Bob Feldman of Nevada General Insurance Company also provided oral testimony. The Division received no written testimony. Mr. Burch stated the regulation changes the term "fidelity bond" to "fidelity coverage", clarifies and updates the filing requirements for financial statements, removes the premium tax reserve requirement, changes the definition of "free surplus", clarifies that consolidated statements from holding company system organizations are not acceptable, and updates the names and addresses of certain referenced publications. During the workshop, the participants concurred with the Division on the changes to the proposed regulation. A revised version of the regulation is attached. The revision amends the proposed regulation for clarification. The Commissioner has issued an order adopting the regulation, as revised pursuant to the workshop and hearing, as a permanent regulation of the Division.

Based upon the testimony received at the hearing, the proposed regulation is revised to read as follows:

1. Subsection 3 of section 1 is amended to read as follows:

3. For a health maintenance organization, blanket fidelity coverage ***issued by an authorized insurer*** in an amount of not less than $1,000,000 in the aggregate to cover every director, officer, partner and employee of the health maintenance organization who may receive, collect, disburse or invest funds in connection with the activities of the health maintenance organization.

2. Paragraph (c) of subsection 2 of section 3 is amended to read as follows:

2(c). Blanket fidelity coverage ***issued by an authorized insurer*** as required by NAC 695C.120 for new health maintenance organizations.

3. Paragraph (b) of subsection 4 of section 4 is amended to read as follows:

4(b). "Free surplus" means the total capital and surplus ~~[less any restricted funds,]~~ as reported on the National Association of Insurance Commissioners~~[,]~~ form of annual statement.

4. Paragraph (a) of subsection 2 of section 5 is amended to read as follows:

2(a). The foreign or alien health maintenance organization submits an affidavit or ***a jurat page, or*** a copy ~~[of a jurat]~~ ***thereof,*** executed by a notarial officer pursuant to NRS 240.1655 and 240.167 to the Commissioner indicating that the statement has been so filed; and

5. Paragraph (b) of subsection 2 of section 5 is amended to read as follows:

2(b). The affidavit or ***jurat page, or a*** copy ~~[of the jurat]~~ ***thereof,*** is accompanied by the applicable fees set forth in NRS 680B.010.

Paragraph (b) of subsection 8 of section 5 is amended to read as follows:

8(b). Filed pursuant to the specifications and instructions adopted by the National Association of Insurance Commissioners which are included in the Annual Statement Instructions ***for Health*** for the type of organization filing, which have been adopted by reference in NAC 679B.033.

The economic impact of the regulation is as follows:

(a) On the business it is to regulate: The regulation will not have an economic impact on the industry.

(b) On the Public: The regulation will not have an economic impact on the public.

The Division anticipates no additional cost to enforce the proposed regulation.

The Division is not aware of any overlap or duplication of the regulation with any state, local or federal regulation.

ADDENDUM TO INFORMATIONAL STATEMENT

This letter provides additional information on the economic impact of the regulation as expressed on page 3 of the Informational Letter.

The economic impact of the regulation on the business that it is to regulate is amended to read as follows:

Section 1 amends the term “blanket fidelity bond” with the more appropriate term “blanket fidelity coverage.” This coverage will now need to be provided by an “authorized insurer,” meaning on in which the Commissioner has issued a Certificate of Authority in Nevada. This will have little or no impact on the regulated entities.

Section 2 corrects the address of the Division of Insurance, and therefore, will have no cost to the entities regulated.

Section 3 is very similar to section 1 in the replacement of the term “blanket fidelity bond” with the term “Blanket fidelity coverage.” This coverage must also be provided by an authorized insurer and should have little or no impact on the regulated entities.

Section 4 redefines “free surplus” in accordance with current definitions required by the National Association of Insurance Commissioners (NAIC). This is important for uniformity and accreditation.

Section 5 mandates the use of current forms required by the NAIC for purposes of annual reporting. This section identifies the source of those forms and their prices. The economic impact on domestic insurers is the cost of the publications and forms purchased from the NAIC. Prices of such documents are set by the NAIC, not the State of Nevada.

Section 5 will also require domestic health maintenance organizations to file quarterly statements with the Commissioner. These organizations are already filing quarterly statements, but they will now be required to use the NAIC forms. This is important for uniformity and accreditation. The economic impact on these organizations is the cost of the forms, instructions, software and any other costs associated with the conversion to the use of these forms.

Section 6 identifies the source and costs of filing materials for domestic health maintenance organizations. The filing requirements have not changed, but the current locations and addresses of the providers in the existing regulation are no longer valid. The only economic impact is the change in prices for the materials. The State of Nevada does not determine these prices.

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INSURANCE

IN THE MATTER OF

CAUSE NO. **03.782**
LCB FILE NO. **R248-03**

REGULATION FOR FINANCIAL REPORTING AND HEALTH MAINTENANCE ORGANIZATIONS.

SUMMARY OF PROCEEDINGS AND ORDER

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SUMMARY OF PROCEEDINGS

A public workshop, as required by NRS 233B.061, on the proposed regulation relating to financial reporting and health maintenance organizations, was held before Cliff King, Chief Insurance Assistant, on January 30, 2004, in Carson City, Nevada, and video-conferenced to the Bradley Building in Las Vegas, Nevada. A public hearing on the proposed regulation was also held before Cliff King, Chief Insurance Assistant, on January 30, 2004, in Carson City, Nevada, and video-conferenced to the Bradley Building in Las Vegas, Nevada. The regulation is proposed under the authority of NRS 679B.130.

The workshop and hearing were attended by 13 individuals. The following persons provided testimony before the Hearing Officer: Mr. Bob Burch, Assistant Chief Examiner; Ms. Connie Ward, Chief Financial Examiner; and Ms. Peggy Willard-Ross, representing the Department of Business and Industry, Division of Insurance (Division); Mr. Jack Kim of Sierra Insurance Group; Mr. James Wadhams, Esq.; and Mr. Bob Feldman of Nevada General Insurance Company. No written comments were received by the Division.

Mr. Burch testified that:

1. The intent of the regulation was to change the term “fidelity bond” to “fidelity coverage” for greater clarity, to remove “premium tax” from the list of required reserves, update the address of the Division, change the definition of the term “free surplus” for greater clarity, clarify and update the filing requirements for annual reports, allow for the filing of an affidavit or jurat page by a foreign or alien insurer indicating the statement had been filed, change the name of the Office of Health Maintenance Organizations to the Health Care Financing Administration – Centers for Medicare and Medicaid Services, clarify and update the requirements for the filing of quarterly statements, and add a section that allows for the Commissioner to require foreign or alien insurers to file more frequently if deemed necessary.

2. The regulation clarifies and updates the filing requirements for audited financial statements, clarifies that consolidated statements from holding company system organizations are not acceptable, adds to the list of items on which the Commissioner can take disciplinary action in regard to statement filings, and updates the address of the National Committee for Quality Assurance and the information on purchasing publications from them.

3. The Legislative Counsel Bureau's (LCB) version changed the terminology from the Division's proposed regulation by substituting "a copy of the signed jurat page" to submitting "a jurat" and also added a new section to define the term "jurat." This was noted as being the same as in other regulations heard at earlier regulatory hearings, so it was suggested that the wording in the LCB version be changed to "an affidavit or a jurat page, or a copy thereof" to make it consistent with the other regulations.

4. LCB also added subsections 10 and 11 to section 5. Subsection 10 allows the Commissioner to grant, for good cause and upon written request, an extension for filing a statement, and subsection 11 gives the meaning of a "jurat."

5. The LCB version should state the annual statement instructions for health under paragraph (b) of subsection 8 of section 5 instead of just simply the annual statement instructions.

Regarding paragraph (b) of subsection 4 of section 4, Mr. Jack Kim, of Sierra Insurance Group, questioned the new definition of "free surplus" and asked Mr. Burch why he had suggested that it was some type of reserve. James Wadhams suggested that the change in terminology would possibly have a good deal of effect under subsection 4 of section 4. Connie Ward, Chief Financial Examiner for the Division, suggested a change from the Division's proposed definition of "free surplus" by deleting the wording "less restricted funds" so that the definition of "free surplus" would read "the total capital and surplus reported on the National Association of Insurance Commissioners form of annual statement." There was agreement by all parties regarding these changes.

Mr. Bob Feldman, of Nevada General Insurance Company, suggested that the phrase "from a licensed surety or insurer" be added where the term "fidelity bond" was being changed to "fidelity coverage." Mr. King testified that, under NRS 680A.300, we were covered and that the insert was unnecessary. Mr. King subsequently concurred and it was agreed to insert the words "issued by an authorized insurer" to the section on blanket fidelity coverage. Ms. Peggy Willard-Ross then noted that the insert would need to be made in both section 1 and section 3.

Hearing Officer Cliff King asked if there were any other comments. Being none, he directed staff to prepare the informational statement and the order adopting this regulation as amended.

RECOMMENDED ORDER OF THE HEARING OFFICER

Based upon the comments and testimony received at the hearing, it is recommended that the proposed regulation be revised to read as follows:

1. Subsection 3 of section 1 is amended to read as follows:

> 3. For a health maintenance organization, blanket fidelity coverage ***issued by an authorized insurer*** in an amount of not less $1,000,000 in the aggregate to cover every director, officer, partner and employee of the health maintenance organization who may receive, collect, disburse or invest funds in connection with the activities of the health maintenance organization.

2. Paragraph (c) of subsection 2 of section 3 is amended to read as follows:

2(c). Blanket fidelity coverage ***issued by an authorized insurer*** as required by NAC 695C.120 for new health maintenance organizations.

3. Paragraph (b) of subsection 4 of section 4 is amended to read as follows:

4(b). "Free surplus" means the total capital and surplus ~~[less any restricted funds,]~~ as reported on the National Association of Insurance Commissioners~~[,]~~ form of annual statement.

4. Paragraph (a) of subsection 2 of section 5 is amended to read follows:

2(a). The foreign or alien health maintenance organization submits an affidavit or ***a jurat page, or*** a copy ~~[of a jurat]~~ ***thereof,*** executed by a notarial officer pursuant to NRS 240.1655 and 240.167 to the Commissioner indicating that the statement has been so filed; and

5. Paragraph (b) of subsection 2 of section 5 is amended to read as follows:

2(b). The affidavit or ***jurat page, or a*** copy ~~[of the jurat]~~ ***thereof,*** is accompanied by the applicable fees set forth in NRS 680B.010.

6. Paragraph (b) of subsection 8 of section 5 is amended to read as follows:

8(b). Filed pursuant to the specifications and instructions adopted by the National Association of Insurance Commissioners which are included in the Annual Statement Instructions ***for Health*** for the type of organization filing, which have been adopted by reference in NAC 679B.033.

SO RECOMMENDED this _____ day of May, 2004.

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CLIFF KING, CPCU
Chief Insurance Assistant and Hearing Officer

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ORDER OF THE COMMISSIONER

Having reviewed the record in this matter, it is hereby ordered that the proposed regulation concerning financial reporting and health maintenance organizations, LCB File No. R248-03, be adopted, as amended, as a permanent regulation of the Division.

SO ORDERED this _____ day of May, 2004.

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ALICE A. MOLASKY-ARMAN
Commissioner of Insurance